APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
FRENEL, VANEL

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 11/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 July 2000* .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
  closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

  If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____ .

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
    application from the International Bureau (PCT Rule 17.2(a)).
  * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

  a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5) ☐ Notice of Informal Patent Application (PTO-152)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .   6) ☐ Other: .

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed July 2000.

Claims 1-21 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al (95,772,585) in view of Walker et al (5,949,875).

(A) As per claim 1, Lavin discloses a medical health record storage and retrieval system comprising:

an interface module operable to extract a patient's medical diagnosis and treatment from respective progress notes of a physician (Col. 1, lines 21-63 to Col. 9, lines 1-57).

a storage module configured to store the extracted diagnosis and treatment in a logically connected database (Col. 9, lines 40-67 to Col. 10, line 11);

a server configured to allow access to the stored database by authorized users (Col. 4, lines 18-59). Lavin does not explicitly disclose a processor module configured to track users accessing the database and to bill the accessing users for each access of the database.

However, this feature is known in the art, as evidenced by Walker. In particular, Walker suggests a processor module configured to track users accessing the database and to bill the accessing users for each access of the database (See Walker Col. 3, lines 5-23; Col. 9, lines 65-67 to Col. 10, line 15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Walker within the system of Lavin with the motivation of providing a system in which information is

communicated to an end-user from a data site, while billing is implemented through a billing system, with

communications between the data site and billing system managed by an access management system. Furthermore,

such a system wherein the billing system may include a "900 type" shared–revenue telephone line (See Walker

Col.2, lines 64-67 to Col.3, line 4).

(B)   As per claim 9, Walker discloses the computerized method further comprising tracking users accessing

the database to process respective billing of the accessing users for each access of the database (See

Walker Col.3, lines 5-23; Col.9, lines 65-67 to Col.10, line 15).

The motivation for combining the respective teachings of Lavin and Walker are as discussed above in the

rejection of claim 1, and incorporated herein.

4.   Claims 2-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Lavin et al 95,772,585) in view of Evans (6,347,329).

(A)   As per claim 2, Lavin discloses a computerized method for managing respective

health records of a plurality of patients, said method comprising:

uploading a progress note of a respective patient, said progress note comprising data relative to an

encounter between a respective physician and the respective patient (Col.6, lines 1-57; Col.8, lines 61-67 to Col.9,

line 29);

identifying on said progress note respective parameters selectable by the respective physician (Col.9,

lines 9-65);

storing said progress note with said identified parameters in a database accessible to a plurality of

authorized users (Col.9, lines 9-67; Col.10, line 11). Lavin does not explicitly state "populating said database with

respective progress notes resulting from further encounters between the respective patient and any respective

physician so as to create a historical set of progress notes for that respective patient".

However, this feature is known in the art, as evidenced by Evans. In particular, Evans suggests populating

said database with respective progress notes resulting from further encounters between the respective patient and

any respective physician so as to create a historical set of progress notes for that respective patient (See Evans Col.7,

lines 46-67 to Col.8, line 65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included

the feature of Evans within the system of Lavin with the motivation of providing instant access to a patient's

electronic medical record by authorized healthcare providers from any geographical location. Thus, the EMR system

enables authorized healthcare providers to access and update patient files using wireless pen-based personal

computers. To enable complete replacement of physical records, the present invention permits healthcare providers,

such as physicians or nurse practitioners to electronically annotate patient data. Thus, a healthcare provider can

acknowledge reviewing patient data, provide instructions, such as prescriptions for medication to administer to a

patient, and approve recommendations for treatment by other providers, all by electronically annotating a patient's

record. In addition , authorized healthcare providers can access a record while other providers use the same record

allowing for real-time collaboration. The availability of electronic data permits instant, sophisticated analysis of

patient data. Moreover, the EMR system enables enhanced analysis of patient data by providing access to reference

databases for diagnosis, procedures and medication (See Evans Col.2, lines 50-67 to Col.3, line 2).

(B)   As per claim 3, Evans discloses the computerized method wherein the identified parameters are selected to

convey a snapshot of said encounter (Col.6, lines 15-41).

The motivation for combining the respective teachings of Lavin and Evans are as discussed above in the

rejection of claim 2, and incorporated herein.

(C)   As per claim 4, Evans discloses the computerized method wherein the identified parameters are selected

from the group of consisting of diagnosis and prescription parameters (Col.11, lines 15-35).

The motivation for combining the respective teachings of Lavin and Evans are as discussed above in the

rejection of claim 2, and incorporated herein.

(D)   As per claim 5, Evans discloses the computerized method wherein the set of historical progress notes is interconnectable based on one or more logic operators (Col.8, lines 34-65).

The motivation for combining the respective teachings of Lavin and Evans are as discussed above in the rejection of claim 2, and incorporated herein.

(E)   As per claim 6, Evans discloses the computerized method wherein one of the logical operators comprises a chronology- indicative operator (Col.9, lines 43-67 to Col.10, line 22).

The motivation for combining the respective teachings of Lavin and Evans are as discussed above in the rejection of claim 2, and incorporated herein.

(F)   As per claim 7, Evans discloses the computerized method wherein one of the logical operators comprises a pathology-indicative operator (Col.1, lines 37-58).

The motivation for combining the respective teachings of Lavin and Evans are as discussed above in the rejection of claim 2, and incorporated herein.

(G)   As per claim 8, Evans discloses the computerized method wherein one of the logical operators comprises a pharmacology-indicative operator (Col.11, lines 1-41).

The motivation for combining the respective teachings of Lavin and Evans are as discussed above in the rejection of claim 2, and incorporated herein.

(H)   As per claim 10, Lavin discloses the computerized method wherein the database is accessible to the plurality of users through a communications network (Col.4, lines 43-59).

(I)   As per claim 11, Evans discloses the computerized method wherein the communications network comprises the Internet (Col.12, lines 60-67).

The motivation for combining the respective teachings of Lavin and Evans are as discussed above in the rejection of claim 2, and incorporated herein.

(A)   Claim 12 differs from claims 1 and 2 by reciting a computer-readable medium encoded with computer

program code for managing respective health records of a plurality of patients, the program code causing a computer

to execute a method comprising:

As per this limitation, it is noted that Lavin discloses uploading a progress note of a respective patient, said

progress note comprising data relative to an encounter between a respective physician and the respective patient

(Col.6, lines 1-57; Col.8, lines 61-67 to Col.9, line 29);

identifying on said progress note respective parameters selectable by the respective physician (Col.9, lines

9-65);

storing said progress note with said identified parameters in a database accessible to a plurality of

authorized users (Col.9, lines 9-67; Col.10, line 11) and Evans discloses populating said database with respective

progress notes resulting from further encounters between the respective patient and any respective physician so as to

create a historical set of progress notes for that respective patient, the set of historical progress notes being

interconnectable based on one or more logic operators.

Thus, it is readily apparent that these prior art systems utilize program code to perform their specified

function.

The remainder of claim 12 is rejected for the same reason given above for claims 1 and 2, and incorporated

herein.

(B)   Claims 13-20 recite the underlying process steps of the elements of claims 3-11, respectively. As the

various elements of claims 3-11 have been shown to be either disclosed by or obvious in view of the collective

teachings of Lavin and Evans, it is readily apparent that the apparatus by the applied prior art performs the recited

underlying functions. As such, the limitations recited in claims 13-20 are rejected for the same reasons given above

for method claims 3-11, and incorporated herein.

(A)   Claim 21 differs from claims 1-2 and 12 by reciting a medical health record storage and retrieval system

comprising:

means for extracting a patient's medical diagnosis and treatment from respective progress notes dictated by a physician.

As per this limitation, it is noted that Lavin discloses means for storing the extracted diagnosis and treatment in a logically connected database (Col.9, lines 40-67 to Col.10, line 11);

means for allowing access to the stored database by authorized users (Col.4, lines 18-59) and Walker discloses means for tracking users accessing the database and for billing the accessing users for each access of the database.

Thus, it is readily apparent that these prior art systems utilize means for extracting to perform their specified function.

The remainder of claim 21 is rejected for the same reason given above for claims 1-2 and 12, and incorporated herein.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches method using central epidemiological database (5,911,132), computerized medical diagnostic and treatment advice system including network access (6,206,829) and method and apparatus for electronically accessing and distributing personal health care information and services in hospitals and homes (5,867,821).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 703-305-4952. The examiner can normally be reached on 6:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9643. The fax phone

numbers for the organization where this application or proceeding is assigned are 703-

305-7687 for regular communications and 703-305-7687 for After Final

communications.

   Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-308-

1113.

V.F
V.F
October 31, 2002

JOSEPH THOMAS
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